



Agenda Date: 10/07/09
Agenda Item: 2J

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

**DIVISION OF ENERGY &
OFFICE OF CLEAN
ENERGY**

IN THE MATTER OF PETITION OF PUBLIC SERVICE)	ORDER ADOPTING
ELECTRIC AND GAS COMPANY FOR APPROVAL OF)	STIPULATION ON
A SOLAR LOAN II PROGRAM AND AN ASSOCIATED)	DEADLINE EXTENSION
COST RECOVERY MECHANISM)	
)	DOCKET NO. EO09030249

(SERVICE LIST AND STIPULATION ATTACHED)

BY THE BOARD:

On October 5, 2009, Public Service Electric and Gas Company ("PSE&G" or "Company"), the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"), the Mid-Atlantic Solar Energy Industries Association ("MSEIA"), the Solar Alliance ("SA"), and the Staff of the New Jersey Board of Public Utilities ("Board Staff") (collectively, the "Signatory Parties") entered into an agreement ("Stipulation") to extend the 180-day review period provided by N.J.S.A. 48:3-98.1(b), in connection with the Company's proposed solar loan filing ("Solar Loan II Program" or "Program"). Rockland Electric Company ("RECO") and the New Jersey Solar Industry Manufacturers Association ("NJSIMA") have indicated that they do not oppose the Stipulation.

By this Order, the New Jersey Board of Public Utilities ("Board") considers the Stipulation extending the time frame for review of PSE&G's Solar Loan II Program.

BACKGROUND AND PROCEDURAL HISTORY

By Order¹ dated August 7, 2008 in Docket No. EO06100744 ("August 7 Order"), the Board directed PSE&G to file with the Board a solar renewable energy certificate ("SREC") based financing plan by March 31, 2009. Pursuant to the August 7 Order, PSE&G's SREC-based financing program could be structured as a modification of the solar loan program approved by Board Order² dated April 16, 2008 in Docket No. E007040278 ("Solar Loan I Program") provided

¹ I/M/O the Renewable Energy Portfolio Standard – Amendments to the Minimum Filing Requirements for Energy Efficiency, Renewable Energy and Conservation Programs, and for Electric Distribution Company Submittals of Filings in Connection with Solar Financing, Docket No. EO06100744, August 7, 2008

² I/M/O the Petition of Public Service Electric and Gas Company for Approval of a Solar Energy Program and an Associated Cost Recovery Mechanism – Decision and Order Approving Settlement, Docket No. E007040278, April 16, 2008

that the modifications are sufficient to enable the loan program to support the transition to a market-based approach to delivering incentives for solar electric generation.

Pursuant to N.J.S.A. 48:3-98.1 *et seq* ("the RGGI Act") and the directives in the Board's May 12, 2008 Order³, on February 25, 2009, PSE&G, Rate Counsel and Staff held a pre-filing meeting to discuss the nature of and cost recovery mechanism for PSE&G's SREC-based financing program. On March 31, 2009, PSE&G filed its Solar Loan II Program. PSE&G supplemented this filing on April 13, 2009, and Staff sent a letter determining administrative completeness on April 30, 2009. Under N.J.S.A. 48:3-98.1(b), the Board's 180-day review period under the RGGI Act for determining cost recovery for the Program commenced on April 13, 2009 and expires on October 13, 2009 ("RGGI Date").

The Company's Program proposal, as originally filed, included several features of the Solar Loan I Program such as: (i) long-term loans contract covering between 40 to 60 percent of the cost of qualifying projects; (ii) loan repayment in SRECs or cash, at the borrower's option; and (iii) auction of SRECs received with net proceeds being deducted from the Program's revenue requirements. However, PSE&G's Solar Loan II Program as filed modified the Solar Loan I Program model by proposing a floor SREC price based on the clearing price resulting from periodic competitive loan solicitations. The Program proposal also requested two waivers of the August 7 Order's requirements regarding the maximum project size of 500kW and the entity cap. In addition, the Program proposal as filed allowed grid-connected projects to be eligible to participate. The segments of the Program proposal were residential and nonresidential, with the non-residential portion be further divided into three subsegments based on system size (i.e. $\leq 50\text{kW}$, $>50\text{ kW} \leq 500\text{ kW}$, and $>500\text{kW}$). PSE&G proposed to recover all Program costs through the Regional Greenhouse Gas Initiative ("RGGI") Recovery Charge, ("RRC"), and to earn a return on its net investment in the Program based on a Weighted Average Cost of Capital ("WACC") of 8.2423% annually (not including tax effects).

By Order dated July 15, 2009 in this docket ("Procedural Order"), the Board retained this matter for review, designated Commissioner Fiordaliso as presiding officer, and adopted a procedural schedule. In addition, the Procedural Order granted the motions to intervene of RECO, SA, and MSEIA. By Order dated July 31, 2009, Commissioner Fiordaliso granted the motion to intervene of NJSIMA.

On July 29, 2009, Rate Counsel filed its direct testimony. On August 31, 2009, the Company filed its rebuttal testimony. Between May and October 2009, PSE&G, RECO, MSEIA, SA, NJSIMA, Staff and Rate Counsel (jointly the "Parties") engaged in settlement discussions. Advanced notice of each settlement meeting was provided to the Parties.

As of October 5, 2009 the Parties have not reached a final settlement in this matter but are continuing their discussions.

PROPOSED STIPULATION

Since discussions in this matter might not be completed by October 13, 2009, the day that the 180-day period for Board action on cost recovery expires, the Signatory Parties have agreed to extend the RGGI Date to provide additional time to continue discussions so that the Board will

³ I/M/O Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy and Offering Class I Renewable Energy Programs in their Respective Service Territories on a Regulated Basis Pursuant to N.J.S.A. 48:3-98.1, Docket No. EO08030164, May 12, 2008.

have a fuller and more accurate record for review of the Solar Loan II Program before it issues a final determination. By e-mails dated October 5, 2009, RECO and NJSIMA stated that they do not oppose the extension.

The attached Stipulation contains a provision to move forward consideration of PSE&G's Program and proposed cost recovery mechanism:

6. The Signatory Parties, pursuant to N.J.S.A. 48:2-21.3, request that the Board issue an Order on or prior to October 13, 2009 extending the current RGGI date of October 13, 2009 and establishing a revised RGGI date for purposes of extending the 180 Day RGGI Period until November 12, 2009.

DISCUSSIONS AND FINDING

N.J.S.A. 48:2-21.3 allows any public utility to file with the Board a written stipulation waiving the effective date of any tariff or rate, subject to the Board's approval. In this case, to make a decision within the statutory time frame, it would be necessary for the Board to rule on PSE&G's Program as filed, disregarding what the Board has been told are the results of extended negotiations among the Parties. Furthermore, no Parties have opposed the Stipulation and the extension of the review period it contains, and PSE&G has agreed to the waiver. The Board **FINDS** that the need of the Parties to continue their discussions, justifies an extension of the RGGI Date to November 12, 2009.

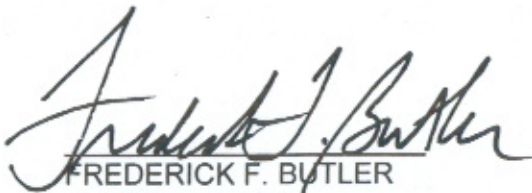
For the foregoing reasons, the Board **HEREBY APPROVES** the attached Stipulation.

DATED: 10/8/09

BOARD OF PUBLIC UTILITIES
BY:



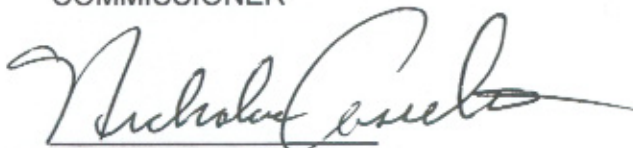
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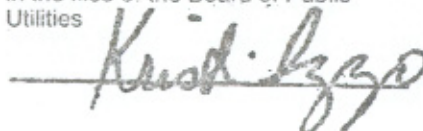


ELIZABETH RANDALL
COMMISSIONER

ATTEST:

KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



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SOLAR LOAN II
BPU DOCKET NO. E009030249**

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October 5, 2009

In The Matter Of The Petition Of
Public Service Electric And Gas
Company For Approval Of A Solar
Loan II Program And An
Associated Cost Recovery Mechanism

BPU Docket No. EO09030249

VIA ELECTRONIC MAIL & REGULAR MAIL

Kristi Izzo, Secretary
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Dear Secretary Izzo:

Please find enclosed for filing a Stipulation of extension of time in the above-referenced matter. An original and eleven copies are enclosed.

Respectfully submitted,

*Original Signed by
Gregory Eisenstark, Esq.*

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BPU DOCKET NO. EO09030249**

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STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF THE PETITION OF)	
PUBLIC SERVICE ELECTRIC AND GAS)	<u>STIPULATION</u>
COMPANY FOR APPROVAL OF A SOLAR)	
LOAN II PROGRAM AND AN ASSOCIATED)	BPU Docket No. EO09030249
COST RECOVERY MECHANISM)	

APPEARANCES¹:

Frances Sundheim, Vice President & Corporate Rate Counsel and **Gregory Eisenstark**, Assistant General Corporate Rate Counsel, for the Petitioner, Public Service Electric and Gas Company

Paul Flanagan, Esq., and **Felicia Thomas-Friel, Esq.**, Deputy Public Advocate, and **Judith Appel, Esq.**, Assistant Deputy Public Advocate, Department of the Public Advocate, Division of Rate Counsel (**Ronald K. Chen, Esq.**, Public Advocate, **Stefanie A. Brand, Esq.**, Director)

Kerri Kirschbaum and Alex Moreau, Deputy Attorneys General, for the Staff of the New Jersey Board of Public Utilities (**Anne Milgram**, Attorney General of New Jersey)

Susan LeGros, Esq., for the Intervenor The Solar Alliance

Basem Ramadan, Esq., for the Intervenor New Jersey Solar Industry Manufacturers Association.

James Meyer, Esq., (Riker Danzig, LLP) for the Intervenor Rockland Electric Company

R. William Potter, Esq., (Potter & Dickson) for the Intervenor Mid-Atlantic Solar Energy Industries Association

TO THE HONORABLE BOARD OF PUBLIC UTILITIES:

1. On March 31, 2009, Public Service Electric and Gas Company ("PSE&G") filed its Petition ("Petition") with the Board of Public Utilities ("Board" or "BPU"),

¹ These are the Parties to this proceeding, as distinguished from the Signatory Parties to this Stipulation.

requesting approval of the Solar Loan II Program ("Program") and an associated rate recovery mechanism pursuant to N.J.S.A. 48:3-98.1 et seq. ("the RGGI Act"). More specifically, PSE&G proposed to provide loans to borrowers to develop 40 MW of solar photovoltaic systems. In addition, PSE&G proposed to roll the unused capacity from the solar loan program approved by Board Order dated April 16, 2008 in Docket No. E007040278 ("Solar Loan I Program") (which the Company at that time estimated would be 15 MW) into Solar Loan II, for a total capacity of 55 MW.

2. On April 13, 2009, PSE&G supplemented its Petition with additional attachments and schedules. On April 30, 2009, the Staff of the Board ("Board Staff") issued a determination that the Company's filing, as supplemented on April 13, 2009, was administratively complete. Therefore, the Board's 180-day review period under the RGGI Act commenced on April 13, 2009 and will expire on October 13, 2009 (the "RGGI date").

3. By an Order dated June 15, 2009, the Board determined to retain this matter for review, designated Commissioner Joseph L. Fiordaliso as the presiding hearing officer, adopted a procedural schedule, granted intervenor status to the Solar Alliance, the Mid-Atlantic Solar Energy Industries Association ("MSEIA"), and Rockland Electric Company. By an Order dated July 21, 2009, Commissioner Fiordaliso granted intervenor status to the New Jersey Solar Industry Manufacturers Association.

4. Following the filing of the Petition, PSE&G, Board Staff, the Department of the Public Advocate, Division of Rate Counsel, The Solar Alliance, and MSEIA (hereinafter referred to as the "Signatory Parties") engaged in extensive discovery and participated in a number of settlement and discovery conferences. While the Signatory

Parties continue to discuss settlement, as of October 5, 2009, the Signatory Parties have not been able to reach a settlement of all outstanding issues.

5. In light of the fact that the Signatory Parties' discussions may not be completed and a Settlement may not be ready for submission to the Board by the RGGI date, the Signatory Parties have agreed to request a 30-day extension in order to provide the Board with additional time to complete the processing of the Petition and issue a final determination in this matter.

Accordingly, the Parties hereby **STIPULATE AND AGREE** as follows:

STIPULATED MATTER

6. The Signatory Parties, pursuant to N.J.S.A. 48:2-21.3, request that the Board issue an Order on or prior to October 13, 2009 extending the current RGGI date of October 13, 2009 and establishing a revised RGGI date for purposes of extending the 180 Day RGGI Period until November 12, 2009.

FURTHER PROVISIONS

7. This Stipulation represents a mutual balancing of interests, contains interdependent provisions and, therefore, is intended to be accepted and approved in its entirety. In the event any particular aspect of this Stipulation is not accepted and approved in its entirety by the Board, any Signatory Party aggrieved thereby shall not be bound to proceed with this Stipulation and shall have the right to litigate all issues addressed herein to a conclusion. More particularly, in the event this Stipulation is not adopted in its entirety by the Board, in any applicable Order(s), then any Signatory Party

hereto is free to pursue its then available legal remedies with respect to all issues addressed in this Stipulation as though this Stipulation had not been signed.

WHEREFORE, the undersigned Signatory Parties hereto do respectfully submit this Stipulation and request that the Board issue a Decision and Order approving it in its entirety, in accordance with the terms hereof, as soon as reasonably possible.

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Staff of the New Jersey
Board of Public Utilities

PUBLIC SERVICE ELECTRIC AND
GAS COMPANY

By: _____
Kerri Kirschbaum,
Deputy Attorney General
Alex Moreau,
Deputy Attorney General

By: _____
Gregory Eisenstark
Assistant General Corporate Rate
Counsel

Dated: October __, 2009

Dated: October __, 2009

DEPARTMENT OF THE PUBLIC ADVOCATE
RONALD K. CHEN, PUBLIC ADVOCATE
DIVISION OF RATE COUNSEL
STEFANIE A. BRAND, DIRECTOR

MID-ATLANTIC SOLAR
ENERGY INDUSTRIES
ASSOCIATION

By: _____
Stefanie A. Brand, Esq., Director

By: _____

Dated: October __, 2009

Dated: October __, 2009

THE SOLAR ALLIANCE

By: _____

Dated: October __, 2009

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PUBLIC SERVICE ELECTRIC AND
GAS COMPANY

By:



Kerri Kirschbaum,
Deputy Attorney General
Alex Moreau,
Deputy Attorney General

By:

Gregory Eisenstark
Assistant General Corporate Rate
Counsel

Dated: October 5, 2009

Dated: October __, 2009

DEPARTMENT OF THE PUBLIC ADVOCATE
RONALD K. CHEN, PUBLIC ADVOCATE
DIVISION OF RATE COUNSEL
STEFANIE A. BRAND, DIRECTOR

MID-ATLANTIC SOLAR
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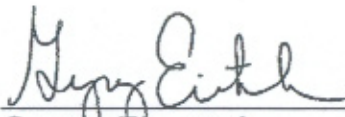
ANNE MILGRAM
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Kerri Kirschbaum,
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Alex Moreau,
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By: _____


Gregory Eisenstark
Assistant General Corporate Rate
Counsel

Dated: October __, 2009

Dated: October 5, 2009

DEPARTMENT OF THE PUBLIC ADVOCATE
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DIVISION OF RATE COUNSEL
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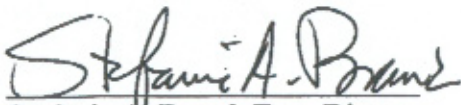
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DEPARTMENT OF THE PUBLIC ADVOCATE
RONALD K. CHEN, PUBLIC ADVOCATE
DIVISION OF RATE COUNSEL
STEFANIE A. BRAND, DIRECTOR

MID-ATLANTIC SOLAR
ENERGY INDUSTRIES
ASSOCIATION

By:



Stefanie A. Brand, Esq., Director

By:

Dated: October 5, 2009

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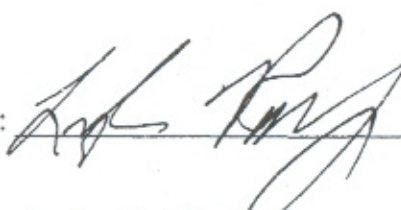
Dated: October __, 2009

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DEPARTMENT OF THE PUBLIC ADVOCATE
RONALD K. CHEN, PUBLIC ADVOCATE
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ENERGY INDUSTRIES
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By: _____
Stefanie A. Brand, Esq., Director

By: 
Dated: October 2, 2009

Dated: October __, 2009

Dated: October 2, 2009

THE SOLAR ALLIANCE

By: _____

Dated: October __, 2009

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ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY
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PUBLIC SERVICE ELECTRIC AND
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By: _____
Kerri Kirschbaum,
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By: _____
Gregory Eisenstark
Assistant General Corporate Rate
Counsel

Dated: October __, 2009

Dated: October __, 2009

DEPARTMENT OF THE PUBLIC ADVOCATE
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By: _____
Stefanie A. Brand, Esq., Director

By: _____

Dated: October __, 2009

Dated: October __, 2009

THE SOLAR ALLIANCE

By:  _____

Dated: October 5, 2009